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October 10, 2023

VIA ECF

The Honorable Denise L. Cote
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 1910
New York, New York 10007

Re. *In Re: Acetaminophen – ASD–ADHD Products Liability Litigation*, Case No. 1:22-md-03043 (S.D.N.Y.) – Motion to File Under Seal

This Document Relates To: All Cases

Dear Judge Cote:

Plaintiffs submit this letter to request that exhibits be filed under seal pursuant to the Protective Order, Dkt. 351 (the “Protective Order”), and Rule 8-B of the Court’s Individual Practices. Specifically, Plaintiffs respectfully request to file under seal certain exhibits of the Declaration of Ashley C. Keller in Support of Plaintiffs’ Opposition to Defendants’ Rule 702 Motions to Exclude Drs. Andrea Baccarelli, Brandon Pearson, Robert Cabrera, Stan Louie, and Eric Hollander, as well as portions of Plaintiffs’ Oppositions to Defendants’ Rule 702 Motions to Exclude Drs. Andrea Baccarelli, Brandon Pearson, Robert Cabrera, Stan Louie, and Eric Hollander (“Oppositions”) that discuss those exhibits.

The parties’ stipulated Protective Order prohibits Plaintiffs from publicly disclosing documents and deposition testimony that have been designated “Confidential Information” by a producing party. JJCI designated the documents contained in Exhibits 1-4, 7, 9, 27, 29, 30, 32, 53, 55, 62, 64, 88, 109-112, 114-116, 120, 122, 125-127, 130, 147, 177, and 188, and Plaintiffs designated the document contained in Exhibit 140 (collectively “Confidential Exhibits”) in support of Plaintiffs’ Memorandum as “Confidential” or “Highly Confidential.” The parties also agreed that any expert deposition testimony regarding documents designated by JJCI as “Confidential” or “Highly Confidential” would be treated the same for purposes of this briefing.

Exhibits 53, 55, 62, 64, 109-112, 114-116, 122, 125, 126, 127, 130, and 177 are internal JJCI documents and/or emails, and consistent with the Court’s Order, ECF No. 504, these exhibits contain “trade secret[s] or other confidential research, development, or commercial information” subject to the protection of Federal Rule of Civil Procedure 26(c)(1)(G) because these exhibits contain JJCI’s proprietary business communications and information. *See Kewazinga Corp. v. Microsoft Corp.*, No. 1:18-CV-4500-GHW, 2021 WL 1222122, at *3 (S.D.N.Y. Mar. 31, 2021). JJCI also designated some of the deposition testimony contained in Exhibits 88 and 120 as “Confidential.” Similarly, “Confidential” or “Highly Confidential” documents were discussed in some of the Plaintiffs’ expert reports (Exhibits 1-4, 7, 9) and expert depositions (27, 29, 30), and those references have been redacted. In addition, Plaintiffs designated Exhibit 140 as “Confidential” because this exhibit contains confidential communications with a government

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official and personally identifying information. Accordingly, the Confidential Exhibits should be filed under seal and references to those exhibits should be redacted in Plaintiffs' Oppositions.

Pursuant to the Protective Order and Rule 8-B of the Court's Individual Practices, Plaintiffs will contemporaneously file the proposed sealed documents under seal in the ECF system and electronically relate those documents to this letter-motion.

Respectfully submitted,

/s/ Ashley Keller

Ashley C. Keller (*Pro Hac Vice*)

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Granted.

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10/11/23